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Letter dated 14 March 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Guinea, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you would arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

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Annex

[Original: French]

Note verbale dated 12 March 2002 from the Permanent Mission of Guinea to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

The Permanent Mission of the Republic of Guinea to the United Nations in New York presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism and, in accordance with operative paragraph 6 of the resolution, has the honour to submit to him the report of the Republic of Guinea (see enclosure).

Enclosure

Report submitted by the Republic of Guinea to the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

For some years, the fight against terrorism has been one of the major concerns of the international community. The determination to fight this phenomenon has created and maintained solidarity among States, despite the differences in the degree to which they suffer from its effects, since some of them have never experienced terrorism.

The Republic of Guinea welcomes the unanimous positions taken by the international community following the events of 11 September and the adoption of the United Nations resolutions and recommendations in order to combat terrorism effectively and collectively.

The Republic of Guinea, following the example of all the Member States of the United Nations, unreservedly condemns all forms of terrorism from wherever it may originate, whosoever perpetrates or sponsors it, and whatever their motivations.

It considers that, in a civilized world, terrorism is one of the most cowardly and treacherous acts that man can commit against his fellow men.

The scope and consequences of terrorism and terrorist threats have led States and the international community to unite in the struggle to eliminate them.

The Republic of Guinea considers that the fact that a State has not suffered from terrorist acts should in no way exclude it from the international community's common endeavour of eradicating terrorism. Consequently, Guinea has established pertinent provisions in its Penal Code to prevent and suppress any terrorist threat or act.

The financing of terrorist acts appears in the Code as an act of complicity and is punished under articles 51, 53 and 54.

The Republic of Guinea has no specific legislation on the financing of terrorist acts as yet, nor does it have specialized structures to combat terrorism. Acts defined as terrorism are regulated by the rules of preliminary investigation and trial proceedings established for criminal acts under general law.

In addition to the provisions concerning terrorism in Guinea's Penal Code, the country's national courts have competence to try any terrorist act or terrorist threat that is contemplated in and punished by the international conventions to which Guinea is a party. This provision stems from article 79 of the Guinean Constitution, which places norms of international law above domestic law and which stipulates: "Treaties or agreements which have been duly approved and ratified shall have from their date of publication a superior authority to that of laws, subject to reciprocity". In case of duplication, the national law shall be eliminated or adapted to the norm of international law.

In order to facilitate the implementation of these provisions, the Republic of Guinea intends to accede to all those international conventions relating to counter-terrorism to which it is not yet a party. The procedure is under way, but there have been some technical difficulties and, to resolve them, assistance is needed in order to modify domestic legislation and adapt it to the conventions.

The Republic of Guinea is prepared to overcome all the difficulties that are delaying its accession to the international legal instruments in order to implement them. It considers that, in this way, it will facilitate the suppression of the phenomenon of terrorism at the domestic level and contribute to international cooperation in this area. In this respect, it endorses the adoption of the International Convention for the Suppression of the Financing of Terrorism and the elaboration of the draft comprehensive convention on international terrorism.

For some years, the fight against terrorism has been the subject of institutional cooperation within the Organization of African Unity (OAU) and the Economic Community of West African States (ECOWAS), as is shown by the adoption of the OAU Convention on the Prevention and Combating of Terrorism and the African Convention on Mutual Legal Assistance (A/P.1/7 1992). The Republic of Guinea supported the elaboration of all these instruments and endorses their provisions.

Paragraph 1

(a) What measures if any have been taken to prevent and suppress the financing of terrorist acts in addition to those listed in your responses to questions on 1 (b) to (d)?

In general, the monitoring mechanism in the Guinean financial system is based on respect for the principles of the Basel Committee on Banking Supervision.

In view of the increasingly destructive effects of terrorist acts throughout the world and their negative impact on the stability of national financial systems, the Central Bank of the Republic of Guinea is considering including in its bank monitoring mechanism in the near future the systematic control of private financial flows into the Republic of Guinea and of the portfolios of loans granted by the banks to certain entities deemed to be sensitive.

In this context, Guinea would appreciate the technical assistance of the Counter-Terrorism Committee in relation to the detection of the more sophisticated channels and mechanisms for money-laundering and the identification of groups and entities deemed to be sensitive.

A special training module for the corps of bank inspectors of the Central Bank of the Republic of Guinea could be defined by agreement between the parties. Subsequently, this training would be expanded to the officers responsible for the "foreign services" of commercial banks.

International cooperation in this respect could take the form of strengthening the means of action of the Inter-governmental Action Group against Money Laundering (GIABA) by establishing a database that can be used by all central banks.

(b) What are the offences and penalties in your country with respect to the activities listed in this subparagraph?

The Guinean Legislature has not yet defined the financing of terrorist acts as a specific offence.

However, as envisaged in paragraph 1 (b) of Security Council resolution 1373 (2001), this type of financing is punishable in Guinea as an act of complicity pursuant to articles 51, 53 and 54 of the Penal Code.

The relevant procedure is:

To define as an accessory:

- Any person who by donations, promises, abuse of authority and power, intrigues or plots, incites a terrorist act or gives instructions for it to be committed (Penal Code, art. 54.2);
- Any person who obtains weapons, instruments or any other means that are used for the act, knowing that they are to be used for it (Penal Code, art. 54.3);
- Any person who, with full knowledge, helps or assists the main perpetrator or the perpetrators of the act directly, in preparing, facilitating or carrying it out, without prejudice to the penalties established in special texts (Penal Code, art. 54.4);
- Any person who, aware of the criminal conduct of those who carry out attacks or acts of violence against State security, the public order, individuals or property, provides them with accommodation, a meeting place or a place to hide (Penal Code, art. 54.5).

Under the terms of article 53 of the Penal Code, accessories to a crime or an offence are subject to the same penalties as the perpetrators themselves.

Terrorist acts are punished by article 507 of the Penal Code, which provides that "Any terrorist act shall be punished by a sentence of 10 to 20 years' imprisonment. Should such an act result in the death of one or more persons, the person or persons responsible shall be sentenced to the death penalty. Attempting to commit the crime set forth in this article shall be punished in the same way as the crime itself".

(c) What legislation and procedures exist for freezing accounts and assets at banks and financial institutions? It would be helpful if States supplied examples of any relevant action taken.

The following procedure is used to freeze assets held in the banks and financial institutions of the Republic of Guinea:

The request for the freezing of the assets is sent to the Ministry of Justice, which proceeds to examine the request.

Once the legitimacy of the request has been established, the judge sends a blocking order to the Central Bank in order to execute the measure.

The Central Bank sends out an inspection mission to the location in question, which blocks the account and reports back to the monetary authorities.

Based on this report, a notification of asset-freezing is sent to the banking institution concerned, which proceeds to transfer the balance to the Central Bank. The freezing is carried out directly if the account is domiciled at the Central Bank.

(d) What measures exist to prohibit the activities listed in this subparagraph?

The reply to this subparagraph appears in the preceding paragraph.

Paragraph 2

(a) What legislation or other measures are in place to give effect to this subparagraph? In particular, what offences in your country prohibit (i) recruitment to terrorist groups and (ii) the supply of weapons to terrorists? What other measures help prevent such activities?

There is no legislation specifically prohibiting recruitment to terrorist groups, but such activities are punishable in Guinea under the provisions on "criminal association" (article 269 et seq. of the Penal Code).

The supply of weapons to terrorists is an offence in Guinea under article 505, paragraphs 3, 4, 5 and 6 and article 506 of the Penal Code.

(b) What other steps are being taken to prevent the commission of terrorist acts, and in particular, what early warning mechanisms exist to allow exchange of information with other States?

Since terrorist acts are supported and inspired by organized structures, combating terrorism must also include prevention, within the framework of the exchange of information at the bilateral and multilateral levels.

(a) At the bilateral level:

Within the framework of bilateral cooperation, Guinea maintains specific contacts with other States for exchanging information on transborder crime.

In addition to the States, the specialized intelligence services cooperate closely with one another on the basis of existing legal instruments between the Governments.

(b) At the multilateral level:

The Republic of Guinea is a founding member of the OAU. As such, it supports all the regional and subregional conventions on security.

In this connection, it is a party to all the ECOWAS treaties on security and to the treaties on transborder security between the States members of the Mano River Union.

These various instruments facilitate the exchange of information and intelligence on the activities in question and on other activities affecting the security of member States.

Early warning mechanisms for exchanging information with other States:

Terrorism is a form of crime which needs to be tackled both by the specialized services and by the Central Bureau of the Criminal Investigation Service.

Regarding cooperation, the Guinean security services maintain contacts with their foreign counterparts for exchanging information of a confidential and operational nature.

In this connection, Guinea is satisfied with the quality of its relations with the International Criminal Police Organization (Interpol), of which it is a member; the effectiveness of Interpol and the quality of its infrastructure and means of communication guarantee success in pursuing suspicious persons. This organization also constitutes a warning mechanism.

The Republic of Guinea has available to it, through the National Central Bureau of Interpol, an effective communication tool in the form of the X400 messaging system, which, in addition to its usual functions, is a warning mechanism capable of giving the alert to any criminal investigation service in the world.

At the domestic level, in addition to the activities of the specialized services, all the other security services cooperate in seeking and identifying groups and networks that may be harbouring or supporting, directly or indirectly, any group likely to perpetrate terrorist acts.

However, the specialized service in this area, though not lacking initiative, does not have the logistical means to fulfil its preventive function.

(c) What legislation or procedures exist for denying safe haven to terrorists, such as laws for excluding or expelling the types of individuals referred to in this subparagraph?

There is no specific law for excluding terrorists from the national territory or refusing them safe haven.

This is also true of the expulsion of terrorists.

However, the Republic of Guinea, pending the enactment of appropriate laws, may take administrative measures to exclude or expel terrorists or groups of terrorists from the national territory, once they are identified.

(d) What legislation or procedures exist to prevent terrorists acting from your territory against other States or citizens?

There is no law to prevent terrorists acting from the national territory against other States or citizens of those States.

(e) What steps have been taken to establish terrorist acts as serious criminal offences and to ensure that the punishment reflects the seriousness of such terrorist acts?

Terrorist acts, as defined by article 505 of the Penal Code, incur punishments ranging, according to the circumstances, from 10 years' rigorous imprisonment to the death penalty.

The sentences are thus sufficiently heavy to demonstrate Guinean legislators' concern about terrorist acts.

It should be made clear that severe punishments were decided on because of their deterrent and preventive effect, since Guinea has yet to experience any terrorist activities.

Consequently, no sentence has yet been passed in this respect.

(f) What procedures and mechanisms are in place to assist other States?

Given that Guinea is not yet a party to all the United Nations conventions against terrorism and taking into account its limited resources, it has not yet been able to provide assistance to other States.

However, within the framework of bilateral and multilateral cooperation, it conducts exchanges of information with its partners.

(g) How do border controls in your country prevent the movement of terrorists? How do your procedures for issuance of identity papers and travel documents support this? What measures exist to prevent their forgery etc?

1. The control of the movement of persons at land and maritime borders and at international airports (emigration and immigration) with a view to detecting wanted persons and persons who are under surveillance is mainly effected by the air and border police.

In this regard, it is necessary to distinguish between:

- The movement of nationals, which is subject to the presentation of a Guinean travel document (passport, ECOWAS travel book, travel warrant, etc.); and
- The movement of aliens: with the exception of countries that have signed reciprocal agreements with Guinea, the conditions for the entry and stay of aliens are governed by Act L94/CTRN.

In this connection, any alien entering the Republic of Guinea is obliged to obtain beforehand an entry visa, which must be duly displayed in his or her travel document.

It should be pointed out that the fact that a country is exempted from the entry-visa requirement by virtue of a reciprocal agreement does not preclude the competent authorities from exercising broad police powers to prohibit entry into the national territory on public safety grounds. In addition to immigration control, our activities extend to identifying aliens from targeted countries that may be harbouring terrorist networks. To this end, such persons are asked for information concerning their connections in Guinea and their origins, which is then transmitted to the intelligence services. Given the new demands of combating terrorism, security and safety checks at airports and land and maritime borders have been strengthened.

The conditions for the granting of Guinean entry visas are as follows:

- Identification of the recipient;
- Verification of the credibility of the applicant;
- Presentation of a photocopy of the recipient's passport.

2. Procedure for the issuance of identity papers and travel documents:

• Identity papers are issued on presentation of:

- A birth certificate;
- A certificate of residence;
- A national census card;
- A certificate of nationality.

Also, the applicant must be physically present for fingerprinting, and checks are made to ensure that he or she has not already received the document requested.

• Issuance of Guinean travel documents is subject to:

- Physical presence of the applicant;
- Presentation of the National Identity Card, a copy of which is attached to the file;
- Conduct by a police officer, in one of the country's national languages, of an interview in order better to evaluate the applicant's citizenship.

The Guinean passport, which is issued by the Central Bureau of the air and border police, in conformity with the norms of international law, has 13 security features.

In addition to these security measures, a system of scanning and digitizing passport photographs has recently been instituted to curb falsification of travel documents through the substitution of photographs.

However, the Guinean security services face a number of difficulties which seriously hamper their operations. These difficulties include a lack of equipment for the screening of documents, detection of questionable objects (arms and ammunition), particularly magnifiers, ultraviolet lamps, manometers, computer equipment for the installation of a national information network linking decision-making bodies at the various borders, and a shortage of qualified personnel.

These problems require assistance in the context of the fight against terrorism which has been the focus of attention of the international community since the events of 11 September 2001. The security services are therefore expressing an urgent need for improved means of communication, transport and information in order to augment their operational capacity and harmonize their efforts with those of their partners in the global struggle against terrorism. There is also the further need to train security officers and agents.

Paragraph 3

(a) What steps have been taken to intensify and accelerate the exchange of operational information in the areas indicated in this subparagraph?

The Guinean security services firmly believe that the exchange of operational information between specialized services constitutes one of the most effective means of combating terrorism and, to that end, work in close cooperation with their counterparts in the subregion in order to intensify the struggle against transnational crime. This measure has been supported and encouraged by the Heads of State of these countries.

As a preventive measure against terrorism, ongoing bilateral cooperation facilitates the exchange of operational information between the Guinean security services and their foreign counterparts.

(b) What steps have been taken to exchange information and cooperate in the areas indicated in this subparagraph?

There is a special service within the national police force called the Direction Centrale de la Surveillance du Territoire et des Voyages Officiels (DCSTVO).

Among other things, it is responsible for research, prevention, neutralization and suppression of activities inspired, carried out and supported by foreign countries, groups or individuals which threaten national security. It is also involved in gathering intelligence and providing protection for government and foreign officials in the Republic of Guinea.

In that regard, it liaises with other foreign services in the processing and use of information necessary for intelligence and for guidance to the Government.

These responsibilities make it directly involved in the efforts to combat terrorism and all forms of comparable crime. The fight against terrorism has therefore been a major concern for several years.

It is in this spirit that the Guinean Government approved Security Council resolution 1373 (2001) and welcomes the establishment of the Committee to monitor its implementation.

(c) What steps have been taken to cooperate in the areas indicated in this subparagraph?

The Republic of Guinea has not yet become a Party to all the conventions and protocols indicated in this subparagraph. However, it is aware of the great importance of these legal instruments with respect to the fight against terrorism. Guinea intends to accede to them and to participate in their implementation since it does not wish to be left behind in this common and major effort to combat terrorism.

(d) Provide any relevant information on the implementation of the conventions, protocols and resolutions referred to in this subparagraph.

The Republic of Guinea has signed six (6) conventions on counter-terrorism and measures are being adopted for their implementation.

Guinea is ready to accede to all the international legal instruments on counter-terrorism.

(e) What legislation, procedures and mechanisms are in place for ensuring asylum-seekers have not been involved in terrorist activity before granting refugee status?

From 1990 onwards, the Republic of Guinea experienced the influx of the first waves of refugees crossing its southern and south-western borders following the deadly conflicts in Liberia and Sierra Leone. Thousands of people were received and sheltered by the local populations without any prior conditions, and these local groups shared everything, food, lodging and even cultivable land, without any external assistance. No mechanism for determining refugee status had been established at that time and there was no legislation to regulate this area.

After receiving refugees exceeding 10 per cent of the local population, and in an effort to facilitate its collaboration with the humanitarian institutions which came to provide their assistance in the management of these persons, in 1990 the Government of Guinea signed a headquarters agreement with the Office of the United Nations High Commissioner for Refugees (UNHCR) which coordinates the humanitarian assistance provided to refugees.

In 1991, the Bureau National de Coordination des Réfugiés (BNCR) was established by the Government to act as its intermediary with the humanitarian agencies. This body is comprised of representatives of the Ministry of Territorial Administration and Decentralization, the Ministry of Foreign Affairs and Cooperation, the Ministry of Public Health, the Secretary of State for Security, the Ministry of Social Affairs and the Ministry of Defence.

Within BNCR an eligibility committee composed of all the members of BNCR and UNHCR was formed. Within the eligibility committee, a preparatory committee comprised of three members was established. In 2000, Act No. L/2000/012/AN on refugee status in the Republic of Guinea was adopted and promulgated. Among the underlying reasons for the establishment of these mechanisms was the need to determine the status to be granted to applicants; it had been noticed during periods of hostilities in the countries of origin of refugees living in the accommodation centres that some of them had light arms and ammunition which they used against other refugees who did not share their political allegiance, and they killed and raped innocent persons living in the accommodation centres.

Thus these mechanisms and laws became operational and they function according to the following procedure:

- Upon arrival in Guinea, the refugee submits an application for asylum to the preparatory committee, which considers the application and verifies its compliance with the Geneva, OAU and ECOWAS conventions on humanitarian law and Act No. 012.

The preparatory committee prepares the presentation of the applicant before the eligibility committee.

At this level, investigations and interviews are carried out with respect to the applicant. These investigations cover, inter alia, the moral standards of the person, his legal history, the reason for his departure and his activities in his country of origin, the choice of Guinea for asylum and his activities there.

If doubts or suspicions emerge, the Guinean security services consult their counterparts in the applicant's country of origin in order to obtain further information. It is often the case that the UNHCR becomes involved in seeking additional information.

It should be noted that consultations held within a bilateral framework have always proved effective in the area of the exchange of operational information and intelligence.

If a person is deemed ineligible for refugee status, he is notified of the decision and the security services take up the case to carry out additional inquiries. The police investigations often result in a decision to repatriate. No legal action has yet been taken against a person whose application for asylum has been rejected.

Persons to whom refugee status has been granted are treated in accordance with Act No. 012 and related international legal instruments.

(f) What procedures are in place to prevent the abuse of refugee status by terrorists? Please provide details of legislation and/or administrative procedures which prevent claims of political motivation being recognized as grounds for refusing requests for the extradition of alleged terrorists.

Under the laws currently in force, no confusion is possible between refugee status and the status of a terrorist who is a criminal under ordinary law. In any event, requests for extradition which observe the provisions of articles 653 and onwards of the Code of Criminal Procedure are always favourably received.

Paragraph 4: Assistance

The Republic of Guinea is requesting the assistance of the Committee in the following areas:

- With respect to the Central Bank, assistance is required in the detection of the more sophisticated channels and mechanisms for money-laundering and the identification of groups and entities deemed to be sensitive. The training of a corps of banking inspectors is also requested.
- With respect to the Ministry of Justice, the following assistance is requested:
  - The preparation of a bill defining and punishing the financing of terrorist networks.
  - The training of magistrates in the detection of techniques used in the financing of international terrorism.
  - With respect to the security services, it would be desirable to improve the training of security officers and agents and to have the benefit of improved means of communication, transport and information in order to increase their operational capacities to harmonize their efforts with their partners.